

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 ) 8:06CR133  
                                )  
vs.                         ) ORDER  
                                )  
JOHN DAVIDSON,             )  
                               )  
Defendant.                 )

This matter is before the court on the government's motion to continue trial (Filing No. 41). The government's counsel represents that an essential witness will be unavailable for trial on the scheduled trial of September 11, 2006. Upon consideration, the motion will be granted.

**IT IS ORDERED:**

1. The government's motion to continue trial (Filing No. 41) is granted.  
2. Trial of this matter is re-scheduled for **October 2, 2006**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **September 11, 2006 and September 18, 2006**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that an essential witness will be unavailable for trial. **See** 18 U.S.C. § 3161(h)(3)(A). Moreover, the failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 5th day of September, 2006.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge